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## North Sound Behavioral Health Administrative Services Organization, LLC

Section 2500 – Privacy: Right to Amend Protected Health Information (PHI)

Authorizing Source: 45 CFR 164.526 (HIPAA); 42 CFR Part 2 (Part 2); RCW 70.02

Approved by: Executive Director Date: 08/11/2020 Signature:

### POLICY # 2515.00

### SUBJECT: RIGHT TO AMEND PROTECTED HEALTH INFORMATION (PHI)

#### PURPOSE

In compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Part 2 Washington Law and any applicable Business Associate Agreements (BAAs), this policy sets out the process to provide and protect an Individual's right to request amendment of certain information. North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO) has both direct obligations as Required by Law, as a former Covered Entity, and contractual obligations, as a Business Associate of an Upstream Covered Entity, to amend inaccurate or incomplete PHI.

Capitalized terms in this policy have specific meanings. Definitions under this policy include Authorized Representative, Business Associate, Business Associate Agreement (BAA), Designated Record Set, Individual, Pre-Transition PHI, Protected Health Information (PHI), Upstream Covered Entity and Workforce. See Policy 2502.00: Definitions for Policies Governing PHI.

#### POLICY

North Sound BH-ASO will amend incomplete or incorrect PHI as requested by an Individual, the Individual's Authorized Representative or an Upstream Covered Entity (the "Requestor"), subject to certain exceptions. North Sound BH-ASO will make appropriate amendments of incomplete or incorrect PHI about the Individual that is maintained by North Sound BH-ASO for as long as North Sound BH-ASO maintains the PHI. Because North Sound BH-ASO does not maintain Treatment records, but only certain data elements, North Sound BH-ASO does not receive many requests for amendment. North Sound BH-ASO, however, respects Individuals' right to request amendment of PHI. North Sound BH-ASO will make appropriate amendments and will assist Individuals in directing them to appropriate Health Care Providers to request amendments.

#### PROCEDURE

1. **Amendment Obligations.**
  - 1.1 **As a Business Associate.** To the extent North Sound BH-ASO is acting as a Business Associate of an Upstream Covered Entity, North Sound BH-ASO will make amendments to PHI in accordance with the applicable BAA.
  - 1.2 **As a Former Covered Entity.** With respect to Pre-Transition PHI, North Sound BH-ASO will make amendments to PHI as required of a Covered Entity under HIPAA and other laws.
2. **Requests.** The Requestor may request an amendment to PHI about the Individual that is maintained by North Sound BH-ASO.

- 2.1 **Written Requests.** Requests to amend any of the PHI held by North Sound BH-ASO must be in writing. North Sound BH-ASO will accept any written requests that comply with this policy. A Workforce member will provide any Requestor with assistance in completing the request, as needed. If a Workforce member receives a verbal request, then the Workforce member should inform the Requestor the North Sound BH-ASO takes requests for amendment but only in writing and encourage the Requestor to use the recognized form.
  - 2.2 **Upstream Covered Entity Request.** An Upstream Covered Entity may request an amendment to PHI, as provided in the applicable BAA.
  - 2.3 **Exemption for Routine Requests.** This policy does not apply to routine requests that do not involve direct Treatment and Payment information, such as an Individual requesting the update of contact information. A Workforce member may handle routine requests informally by appropriately updating the information. In routine request situations, the Workforce member still must verify the identity and authority of the Requestor. See Section 4 of this policy and Policy 2524.00: Verification of Identity and Authority.
3. **Receiving Requests.** Requests for amendment will be forwarded promptly to the Privacy Officer. The Privacy Officer is responsible for making the following determinations and for managing communications.
  4. **Verification of Identity and Authority of Requestor.** The Privacy Officer will verify the identity of the Requestor as an Individual, the Individual's Authorized Representative or an Upstream Covered Entity. See Policy 2524.00: Verification of Identity and Authority.
  5. **Processing a Request.**
    - 5.1 **Log Request upon Receipt.** Requests will be deemed made when they are received by North Sound BH-ASO. The Privacy Officer will verify all requests are logged and will appropriately review all logged requests for amendment to PHI, as well as North Sound BH-ASO's responses.
    - 5.2 **Confirmation of PHI.** The Privacy Officer will determine whether North Sound BH-ASO possesses or is responsible for the PHI in question.
    - 5.3 **Assistance to Requestors.** If the Privacy Officer determines North Sound BH-ASO does not maintain the requested PHI, then the Privacy Officer will inform the Requestor and provide the Requestor with the name and address, if known, of the person or entity who maintains the PHI.
    - 5.4 **Completeness.** The Privacy Officer will review the request for completeness and will contact the Requestor if additional information is needed to respond to the request. Any contact and additional information will be documented.
  6. **Determinations.**
    - 6.1 **Involvement of Decision-Makers.** The Privacy Officer will determine necessary and appropriate Workforce members to involve with regard to making determinations in response to the request.
      - 6.1.1. The Privacy Officer should determine who should be involved in any decision concerning the requested amendment or correction (e.g., the Executive Director, Deputy Director, Ombuds, or legal counsel).
      - 6.1.2. The decisions should be based on the significance of facts and circumstances specific to the requested amendment or correction. Factors may include, but not be limited

to: the intended use of the PHI, both internally and externally; and the impact of the amendment or correction on the Requestor. For example, a simple change in a relatively insignificant data may be able to be approved easily with very little input from others besides the primary Workforce member involved and the Privacy Officer.

6.1.3. The Privacy Officer will attempt to reach consensus with respect to any determinations but shall make the final determinations, based on input from appropriate Workforce members, as to requests for amendment.

6.2 **Response to Requests.** In response to each request for amendment to PHI, North Sound BH-ASO either shall:

6.2.1. Agree to the amendment and promptly make the agreed-to amendment;

6.2.2. Deny the amendment in full, providing the Requestor the rights described in Section 8 of this policy; or

6.2.3. Agree in part to the request and deny in part the request.

7. **Granting Requests.** In those instances when North Sound BH-ASO grants the request for amendment, North Sound BH-ASO will do the following:

7.1 **Make the Amendment.** The Privacy Officer will arrange to make the amendments or corrections.

7.2 **Inform the Requestor.** North Sound BH-ASO shall inform the Requestor in writing of North Sound BH-ASO's agreement to make the amendment and attempt to obtain identification, agreement and, as necessary, authorization from the Requestor to have North Sound BH-ASO notify the relevant persons with whom the amendment needs to be shared.

7.3 **Inform Others.** North Sound BH-ASO will provide notification of the amendment within a reasonable time to those persons who North Sound BH-ASO knows have the disputed PHI and may have relied upon the PHI in the past, or who might reasonably be expected to rely upon it in the future, to the detriment of the Requestor.

8. **Denial of Requests.**

8.1 **Grounds for Denial.** North Sound BH-ASO may deny any request for amendment or correction if it determines that:

8.1.1. The information is accurate and complete;

8.1.2. North Sound BH-ASO did not create the information, unless the Requestor provides a reasonable basis to believe the originator of the PHI is no longer available to act on the requested amendment; or

8.1.3. The information would not be available for inspection by the Requestor under Policy 2514.00: Right to Access PHI.

8.2 **Notification of Denial.** In those instances, when North Sound BH-ASO denies the request for amendment, North Sound BH-ASO will provide the Requestor with a written denial that is in plain language and contains:

8.2.1. The basis for the denial.

- 8.2.2. The Individual's or Authorized Representative's right to file a written statement (up to 500 words) disagreeing with the denial with direction to send the statement to the Privacy Officer.
- 8.2.3. A statement that, if the Individual or Authorized Representative does not submit a statement of disagreement, then the Individual or Authorized Representative may request North Sound BH-ASO to provide the request for amendment and the denial with any future disclosures of PHI that is the subject of the amendment.
- 8.2.4. The process for the Individual or Authorized Representative to use to file a complaint about the denial to North Sound BH-ASO, including the name, title and telephone number of the North Sound BH-ASO Workforce member or office responsible for complaints or to the Secretary of Department of Health and Human Services.
- 8.2.5. If North Sound BH-ASO does not maintain the PHI or is not the creator of the PHI to be amended, then a statement the North Sound BH-ASO did not create or maintain the PHI and the provision of the name and address of the person who maintains the record.

8.3 **Statement of Disagreement.** For any denials, North Sound BH-ASO shall permit the Individual or Authorized Representative to file a written statement of disagreement that describes Individual's or Authorized Representative's disagreement with the denial of all or part of the requested amendment and the basis of the disagreement. Any statement of disagreement shall be limited to 500 words. North Sound BH-ASO will append the statement of disagreement to the disputed information within the Designated Record Set.

8.4 **Rebuttal Statements.** In response to any statement of disagreement, North Sound BH-ASO may prepare a rebuttal statement and append it to the disputed information within the Designated Record Set. If North Sound BH-ASO does so, then North Sound BH-ASO will provide the Requestor with a copy of the rebuttal statement.

8.5 **Future Disclosures.** North Sound BH-ASO shall include any statement of disagreement and any rebuttal statement with any subsequent Disclosures of PHI to which the disagreement relates. Alternatively, North Sound BH-ASO, in its discretion, may include an accurate summary of the information relating to the disagreement with future disclosures of PHI.

9. **Timing.** North Sound BH-ASO will respond to all requests from Requestors for amendment or correction to PHI within ten (10) days from the date of its receipt of the request. If North Sound BH-ASO is unable to respond within this amount of time, North Sound BH-ASO will so notify the Requestor in writing prior to the expiration of the ten (10)-day period and provide the reason why North Sound BH-ASO needs additional time and the estimated date (which may be no more than an additional eleven (11) days beyond the original (10) days) by which North Sound BH-ASO expects to complete action on the request.

10. **Retention of Documentation.** Documentation relating to an Individual's right to amend their PHI shall be retained at least six (6) years. Retention requirements include:

10.1 **Policies, procedures and processes related to the right to amend PHI.**

10.2 **Requests for amendment.**

10.3 **Statements of disagreement.**

10.4 **Rebuttal statements.**

11. **Related Policies.** Other policies and procedures to review that are related to this policy:

- 11.1 **Policy 2501.00: Privacy and Confidentiality.**
- 11.2 **Policy 2502.00: Definitions for Policies Governing PHI.**
- 11.3 **Policy 2514.00: Right to Access PHI.**
- 11.4 **Policy 2521.00: Authorizations.**
- 11.5 **Policy 2524.00: Verification of Identity and Authority.**

**ATTACHMENTS**

None